

Message Text

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ORIGIN EUR-12

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R 161019Z APR 76

FM SECSTATE WASHDC

TO AMEMBASSY ANKARA

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E.O. 11652: N/A

TAGS: PFOR, TU

SUBJECT: TURKISH REQUEST FOR LOCKHEED MATERIALS

1. AT TIME OF ALPKAYA RESIGNATION, TURKISH EMBASSY REQUESTED MATERIALS IN USG POSSESSION OF ALLEGED ILLICIT ACTS PERTAINING TO SALES ACTIVITIES IN TURKEY OF LOCKHEED AIRCRAFT CORPORATION AND ITS SUBSIDIARIES OR AFFILIATES.
2. DISCUSSIONS BETWEEN EMBASSY AND DEPARTMENT OF JUSTICE (WITH REPRESENTATIVES OF L/EUR AND EUR/SE ALSO PRESENT) HAVE FOCUSED ON FORMULATION OF AGREEMENT BETWEEN US DEPARTMENT OF JUSTICE AND TURKISH MINISTRY OF JUSTICE PROVIDING FOR RECIPROCAL SHARING OF SUCH MATERIALS FOR USE BY LAW ENFORCEMENT AGENCIES IN BOTH COUNTRIES (BASED ON US-ITALIAN AGREEMENT).
3. DURING INITIAL DISCUSSIONS, TURKISH EMBASSY, WHICH WAS UNDER GOT PRESSURE TO OBTAIN MATERIALS AS QUICKLY AS POSSIBLE, TENDED TO CHAFE AT US PROCEDURES AND SAFEGUARDS. AT APRIL 14 MEETING, HOWEVER, DEPARTMENT OF JUSTICE DRAFT WITH AGREED MODIFICATIONS WAS ACCEPTED BY LIMITED OFFICIAL USE

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EMBASSY IN PRINCIPLE AND WILL BE FORWARDED TO ANKARA FOR

APPROVAL. AGREEMENT ENTITLED: "PROCEDURES FOR MUTUAL ASSISTANCE IN THE ADMINISTRATION OF JUSTICE IN CONNECTION WITH THE LOCKHEED AIRCRAFT CORPORATION MATTER" (TEXT GIVEN BELOW AND IS UNCLASSIFIED). PROVISION FOR PARLIAMENTARY INVESTIGATION UNDER ARTICLE 90 OF TURKISH CONSTITUTION WAS TOPIC OF PROLONGED DISCUSSION. LAST SENTENCE OF FIRST PARAGRAPH OF ARTICLE 4 CONSEQUENTLY INCLUDED IN THE EVENT OF PARLIAMENTARY REQUEST.

4. BEGIN TEXT. THE UNITED STATES DEPARTMENT OF JUSTICE AND THE TURKISH MINISTRY OF JUSTICE, HEREINAFTER REFERRED TO AS "THE PARTIES", CONFIRM THE FOLLOWING PROCEDURES IN REGARD TO MUTUAL ASSISTANCE TO BE RENDERED TO AGENCIES WITH LAW ENFORCEMENT RESPONSIBILITIES IN THEIR RESPECTIVE COUNTRIES WITH RESPECT TO ALLEGED ILLICIT ACTS PERTAINING TO THE SALES ACTIVITIES IN TURKEY OF THE LOCKHEED AIRCRAFT CORPORATION AND ITS SUBSIDIARIES OR AFFILIATES:

1. ALL REQUESTS FOR ASSISTANCE SHALL BE COMMUNICATED BETWEEN THE PARTIES THROUGH THE DIPLOMATIC CHANNEL.

2. UPON REQUEST, THE PARTIES SHALL USE THEIR BEST EFFORTS TO MAKE AVAILABLE TO EACH OTHER RELEVANT AND MATERIAL INFORMATION, SUCH AS STATEMENTS, DEPOSITIONS, DOCUMENTS, BUSINESS RECORDS, CORRESPONDENCE OR OTHER MATERIALS, AVAILABLE TO THEM CONCERNING ALLEGED ILLICIT ACTS PERTAINING TO THE SALES ACTIVITIES IN TURKEY OF THE LOCKHEED AIRCRAFT CORPORATION AND ITS SUBSIDIARIES OR AFFILIATES.

3. SUCH INFORMATION SHALL BE USED EXCLUSIVELY FOR PURPOSES OF INVESTIGATION CONDUCTED BY AGENCIES WITH LAW ENFORCEMENT RESPONSIBILITIES AND IN ENSUING CRIMINAL, CIVIL AND ADMINISTRATIVE PROCEEDINGS, HEREINAFTER REFERRED TO AS "LEGAL PROCEEDINGS".

4. EXCEPT AS PROVIDED IN PARAGRAPH 5, ALL SUCH INFORMATION MADE AVAILABLE BY THE PARTIES PURSUANT TO THESE PROCEDURES, AND ALL CORRESPONDENCE BETWEEN THE PARTIES RELATING TO SUCH INFORMATION AND TO THE IMPLEMENTATION OF THESE PROCEDURES, SHALL BE KEPT CONFIDENTIAL BY BOTH PARTIES AND SHALL NOT BE DISCLOSED TO THIRD PARTIES OR TO GOVERNMENT AGENCIES HAVING NO LAW ENFORCEMENT RESPONSIBILITIES. DISCLOSURE TO OTHER AGENCIES HAVING LAW ENFORCEMENT RESPONSIBILITIES SHALL BE CONDITIONED ON THE LIMITED OFFICIAL USE

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RECIPIENT AGENCY'S ACCEPTANCE OF THE TERMS SET FORTH HEREIN. UNLESS OTHERWISE AGREED, SHOULD A SUBSEQUENT DEVELOPMENT IN ACCORDANCE WITH EXISTING DOMESTIC LAW, IMPAIR THE ABILITY OF THE REQUESTING STATE OR ANY AGENCY THEREOF, TO CARRY OUT THE TERMS SET FORTH HEREIN, THE REQUESTING STATE SHALL PROMPTLY RETURN ALL MATERIALS MADE AVAILABLE HEREUNDER TO THE REQUESTED STATE. IN THE EVENT OF BREACH OF CONFIDENTIALITY, THE OTHER

PARTY MAY DISCONTINUE COOPERATION UNDER THESE PROCEDURES.

5. INFORMATION MADE AVAILABLE PURSUANT TO THESE PROCEDURES MAY BE USED FREELY IN ENSUING LEGAL PROCEEDINGS IN THE REQUESTING STATE IN WHICH AN AGENCY OF THE REQUESTING STATE HAVING LAW ENFORCEMENT RESPONSIBILITIES IS A PARTY, AND THE PARTIES SHALL USE THEIR BEST EFFORTS TO FURNISH THE INFORMATION FOR PURPOSES OF SUCH LEGAL PROCEEDINGS IN SUCH FORM AS TO RENDER IT ADMISSIBLE PURSUANT TO THE RULES OF EVIDENCE IN EXISTENCE IN THE REQUESTING STATE, INCLUDING, BUT NOT LIMITED TO, CERTIFICATIONS, AUTHENTICATIONS, AND SUCH OTHER ASSISTANCE AS MAY BE NECESSARY TO PROVIDE THE FOUNDATION FOR THE ADMISSIBILITY OF EVIDENCE.

6. THE PARTIES SHALL GIVE ADVANCE NOTICE AND AFFORD AN OPPORTUNITY FOR CONSULTATION PRIOR TO THE USE, WITHIN THE MEANING OF PARAGRAPH 5, OF ANY INFORMATION MADE AVAILABLE PURSUANT TO THESE PROCEDURES.

7. UPON REQUEST, THE PARTIES AGREE TO PERMIT THE INTERVIEWING OF PERSONS IN THEIR RESPECTIVE COUNTRIES BY LAW ENFORCEMENT OFFICIALS OF THE OTHER PARTY, PROVIDED ADVANCE NOTICE IS GIVEN OF THE IDENTITY OF THE PERSONS TO BE INTERVIEWED AND OF THE PLACE OF THE INTERVIEW. REPRESENTATIVES OF THE OTHER PARTY MAY BE PRESENT AT SUCH INTERVIEWS. THE PARTIES WILL ASSIST EACH OTHER IN ARRANGING FOR SUCH INTERVIEWS AND WILL PERMIT THE TAKING OF TESTIMONY OR STATEMENTS OR THE PRODUCTION OF DOCUMENTS AND OTHER MATERIALS IN ACCORDANCE WITH THE PRACTICE OR PROCEDURE OF THE REQUESTING STATE. THE REQUESTING PARTY SHALL NOT PURSUE ITS REQUEST FOR AN INTERVIEW OR FOR THE PRODUCTION OF DOCUMENTS AND OTHER MATERIALS IF THE REQUESTED PARTY CONSIDERS THAT IT WOULD INTERFERE WITH AN ONGOING INVESTIGATION OR PROCEEDING BEING CONDUCTED BY THE AUTHORITIES OF THE REQUESTED PARTY.

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8. THE PARTIES SHALL USE THEIR BEST EFFORTS TO ASSIST IN THE EXPEDITIOUS EXECUTION OF LETTERS ROGATORY ISSUED BY THE JUDICIAL AUTHORITIES OF THEIR RESPECTIVE COUNTRIES IN CONNECTION WITH ANY LEGAL PROCEEDINGS WHICH MAY ENSUE IN THEIR RESPECTIVE COUNTRIES.

9. THE ASSISTANCE TO BE RENDERED TO A REQUESTING STATE SHALL NOT BE REQUIRED TO EXTEND TO SUCH ACTS BY THE AUTHORITIES OF THE REQUESTED STATE AS MIGHT RESULT IN THE IMMUNIZATION OF ANY PERSON FROM PROSECUTION IN THE REQUESTED STATE.

10. ALL ACTIONS TO BE TAKEN BY A REQUESTED STATE WILL BE PERFORMED SUBJECT TO ALL LIMITATIONS IMPOSED BY ITS DOMESTIC LAW. EXECUTION OF A REQUEST FOR ASSISTANCE MAY BE POSTPONED OR DENIED IF EXECUTION WOULD INTERFERE WITH AN ONGOING INVESTIGATION OR LEGAL PROCEEDING IN THE

REQUESTED STATE.

11. NOTHING CONTAINED HEREIN SHALL LIMIT THE RIGHTS OF THE PARTIES TO UTILIZE FOR ANY PURPOSE INFORMATION WHICH IS OBTAINED BY THE PARTIES INDEPENDENT OF THESE PROCEDURES.

12. THE MUTUAL ASSISTANCE TO BE RENDERED BY THE PARTIES PURSUANT TO THESE PROCEDURES IS DESIGNED SOLELY FOR THE BENEFIT OF THEIR RESPECTIVE AGENCIES HAVING LAW ENFORCEMENT RESPONSIBILITIES AND IS NOT INTENDED OR DESIGNED TO BENEFIT THIRD PARTIES OR TO AFFECT THE ADMISSIBILITY OF EVIDENCE UNDER THE LAWS OF EITHER THE UNITED STATES OR TURKEY.

DONE AT WASHINGTON, D.C., THIS . . . DAY OF APRIL, 1976.

END TEXT.

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